

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

Case No.: \_\_\_\_\_

NAV-TV CORP.,

Plaintiff,

v.

NAVTOOL, INC.,

Defendant.

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COMPLAINT

JURY TRIAL  
DEMANDED

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ SEP 18 2009 ★

BROOKLYN OFFICE

4044

GLASSER, J.

BLOOM, M.J.

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Plaintiff Nav-TV Corp. ("Plaintiff" or "Nav-TV"), by its undersigned attorneys alleges, upon knowledge as to its own conduct and otherwise upon information and belief, for its complaint against NavTool, Inc. ("Defendant") as follows:

**THE PARTIES**

1. Nav-TV is a corporation organized and existing under the laws of the State of Florida having an address at 100 NW 11th Street, Boca Raton, Florida 33432-2600.
2. On information and belief, Defendant is a corporation having an address at 1204 Avenue U, Suite 1075, Brooklyn, New York 11229.

**JURISDICTION AND VENUE**

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331, and 28 U.S.C. §1338, and 28 U.S.C. §1367 as the present case arises under the Lanham Act, as amended, 15 U.S.C § 1051 et seq., unlawful cybersquatting in violation of Section 43(d) of the Lanham Act, and trademark infringement and unfair competition arising under the common law of the State of New York and as is hereinafter more fully described.

4. This Court has jurisdiction over the Defendant because Defendant maintains its principal place of business in this district.

5. Venue is proper in this district under 28 U.S.C. 1391(b) and (c) because Defendant maintains its principal place of business within this district.

### **FACTUAL BACKGROUND**

6. Plaintiff repeats each and every allegation set forth in paragraphs 1 through 5 as though fully set forth herein.

7. Nav-TV, among other things designs, manufactures, and distributes automotive audio and video equipment for integration with original equipment manufacturer liquid crystal display (LCD) screens commonly found in automobiles with navigation systems. Nav-TV's products include video converter and tuner kits which enable a car's LCD screen to play DVDs and local television programs.

8. Nav-TV began designing, manufacturing and selling video converter and tuner kits under the Nav-TV trademark in 2000.

9. Nav-TV was the first company in the United States to sell LCD screen conversion systems and is the leading manufacturer of LCD screen conversion systems in the United States.

10. Nav-TV has a reputation as the industry leader in LCD screen conversion systems and is known for products incorporating quality technology, engineering and ingenuity.

11. Nav-TV's position as an industry leader is evidenced by its dealer network of over 3,500 dealers worldwide and annual sales exceeding five (5) million dollars in 2008.

12. Nav-TV registered the websites NAV-TV.COM in 2001 and NAVTV.COM in 2002, and advertises and sells its LCD screen conversion systems as well as other automotive

related products such as back up cameras, night vision cameras and digital audio integration systems through these websites.

13. Nav-TV is the owner of numerous United States registrations of trademarks and service marks comprising the words “Nav TV” (collectively the “Nav-TV Marks”)(Ex. A), including:

- a. U.S. Registration No. 3221234 for NAV-TV for “TV and video converters”;
- b. U.S. Registration No. 3150329 for NAV-TV.COM for “Online retail and wholesale store services featuring navigation apparatuses for vehicles in the nature of on-board computers, audio and video equipment with access to television for vehicles, and other personal entertainment electronics for vehicles”;
- c. U.S. Registration No. 3081166 for NAV TV for “Navigational apparatus for land vehicles in the nature of on-board computers; electronic audio and video modules with access to television for land vehicles, and other personal entertainment electronics namely DVDs, videos, AV inputs-output for land vehicles”;
- d. U.S. Registration No. 2934418 for NAVTV for “Navigation apparatus for vehicles in the nature of on-board computers, adapters integrating audio and video source to navigation screens to provide access to television for vehicles, personal entertainment electronics for vehicles, namely DVD machines and television sets”.

14. Nav-TV has gained nationwide recognition for its products being sold under the Nav-TV Marks as a result of its widespread distribution of products and marketing efforts.

15. In the year 2008 alone, Nav-TV spent over \$280,000 for the promotion and marketing of its products under the Nav-TV Marks.

16. Upon information and belief, Defendant is a distributor of automotive audio and video systems for integration with original equipment manufacturer LCD screens commonly found in automobiles with navigation systems.

17. Upon information and belief, Defendant sells similar products and services in identical markets as Nav-TV in direct competition with Nav-TV.

18. Upon information and belief, Defendant began selling LCD conversion systems sometime in 2008, long after Nav-TV commenced use of the Nav-TV Marks for the sale of LCD conversion systems.

19. Upon information and belief, Defendant registered the domain names NAVTOOL.COM and TVANDNAV.COM in its own name.

20. Upon information and belief, Defendant's products and services are offered and sold through the website "TVANDNAV.COM" despite operating under the company name NAVTOOL and owning the domain name NAVTOOL.COM.

21. Upon information and belief, Defendant uses the domain name NAVTOOL.COM only to redirect internet traffic to the domain name TVANDNAV.COM.

22. Upon information and belief, Defendant has also purchased the domain names NAVTV.ORG and NAVTV.NET and uses these websites to redirect traffic automatically to the TVANDNAV.COM website.

23. Upon information and belief, Defendant purchased the domain name NAVTV.ORG on June 30, 2006.

24. Upon information and belief, Defendant purchased the domain name NAVTV.NET on July 1, 2006.

25. Commencing at a time unknown to Nav-TV, but long after Nav-TV commenced use of its Nav-TV Marks for the sale of LCD conversion systems, Defendant began redirecting internet traffic from NAVTV.NET and NAVTV.ORG to TVANDNAV.COM where it is actively selling LCD conversion systems in direct competition with Nav-TV.

26. On or about August 15, 2009, Nav-TV became aware of Defendant's use of the websites NAVTV.ORG and NAVTV.NET.

27. Commencing at a time unknown to Nav-TV, but long after Nav-TV commenced use of its Nav-TV Marks for the sale of LCD conversion systems, Defendant began paying the internet search engine “Google” to cause the domain name TVANDNAV.COM to appear as a sponsored search result when a user searches for “NAV TV”, “NAVTV”, “NAV-TV”, “NAV-TV.COM” or “NAVTV.COM”.

28. Defendant’s use of the domain name “TVANDNAV.COM” incorporating a trademark confusingly similar to those registered to Nav-TV, for the sale of products and services in direct competition with Nav-TV, is likely to cause confusion, mistake or deception as to the affiliation, connection, or association of the Defendants with Nav-TV among the relevant trade and public.

29. Defendant’s use of the domain names NAVTV.NET and NAVTV.ORG incorporating a trademark identical to those registered to Nav-TV, for the sale of products and services in direct competition with Nav-TV, is likely to cause confusion, mistake or deception as to the affiliation, connection, or association of the Defendants with Nav-TV among the relevant trade and public.

30. Upon information and belief, Defendant is engaging in this course of action willfully and with full knowledge and awareness of the superior trademark rights of Nav-TV, and with the purpose and intent of confusing the relevant trade and public into mistakenly believing that Defendant’s services are associated with, affiliated with, or licensed by Nav-TV.

31. Nav-TV has suffered, is suffering, and will continue to suffer irreparable damage to its reputation, potential goodwill and loss of investment in marketing and the goodwill accumulated through its trademarks unless Defendant is restrained by this Court.

### **COUNT I – TRADEMARK INFRINGEMENT**

32. Plaintiff repeats each and every allegation set forth in paragraphs 1 through 31 as though fully set forth herein.

33. Defendant's aforesaid activities constitute trademark infringement of Nav-TV's trademark rights in the Nav-TV Marks under the Lanham Act.

34. Defendant's use of the domain names NAVTV.NET, NAVTV.ORG and TVANDNAV.COM are likely to cause confusion, mistake, and deception of the relevant trade and public who are likely to believe that the products and services provided by Defendant are related to, connected to, or approved by Nav-TV when in fact they are not.

### **COUNT II – TRADEMARK CYBERSQUATTING**

35. Plaintiff repeats each and every allegation set forth in paragraphs 1 through 34 as though fully set forth herein.

36. Defendant's aforesaid activities constitute trademark cybersquatting in violation of § 43(d)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(d)(1)(A).

37. Defendant is using domain names NAVTV.NET and NAVTV.ORG with bad faith intent to divert consumers from Plaintiff's website NAVTV.COM to Defendant's website TVANDNAV.COM. Defendant's use of NAVTV.NET and NAVTV.ORG is likely to cause harm to the goodwill accumulated by Plaintiff in its Nav-TV Marks, for Defendant's own commercial gain, by creating likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of Defendant's website and products.

### **COUNT III – COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION**

38. Plaintiff repeats each and every allegation set forth herein in paragraphs 1 through 37 as though fully set forth herein.

39. Defendant's aforesaid activities constitute infringement of Nav-TV's common law trademark rights in the Nav-TV Marks and constitute unfair competition under the common law of the State of New York.

**WHEREFORE**, Plaintiff prays that:

A. Defendant, its agents, servants, employees, franchisees, licensees, attorneys and all others in active concert or participation with Defendant, be enjoined and restrained, during the pendency of this action as preliminary injunction and permanently thereafter from:

1. Using the name or mark NAVTV.ORG, NAVTV.NET, TVANDNAV.COM, or any colorable imitation of Plaintiff's Nav-TV Marks, in connection with the advertisement, promotion, rendering of any services, or sale of LCD conversion systems; and

2. Operating any website located at <http://www.TVANDNAV.COM>, <http://www.NAVTV.ORG> and <http://www.NAVTV.NET>; and

3. Doing any other act or thing likely to, or calculated to, induce the belief that Defendant or the Defendant's business is in any way affiliated, connected or associated with Nav-TV, or Nav-TV's business.

B. Within ten (10) days after the entry of an order for either preliminary or permanent injunction, Defendant be required to transfer to Plaintiff or surrender the internet domain names TVANDNAV.COM, NAVTV.ORG, and NAVTV.NET.

C. Within ten (10) days after the entry of an order for either preliminary or permanent injunction, Defendant be required to notify and direct in writing all publishers of directories in which its TVANDNAV.COM, NAVTV.ORG, and NAVTV.NET domain names appear,

including internet search engines, to delete all references to TVANDNAV.COM, NAVTV.ORG, and NAVTV.NET from their public databases, search engines directories, directory assistance, and from all future directories in which TVANDNAV.COM, NAVTV.ORG, and NAVTV.NET appear, and to delete all forwarding of cache memory or storage mechanisms referencing TVANDNAV.COM, NAVTV.ORG, and NAVTV.NET.

D. Defendant, its agents, servants, employees, franchisees, licensees, attorneys and all others in active concert or participation with Defendant be required to deliver for destruction all labels, letterhead, business cards, signs, prints, packages, wrappers, receptacles, advertisements and the like in their possession bearing the names or marks TVANDNAV.COM, NAVTV.ORG, and NAVTV.NET or any other reproduction, counterfeit, copy or colorable imitation of Plaintiff's Nav-TV Marks.

E. Within ten (10) days after the entry of an order for preliminary or permanent injunction, Defendant be required to notify in writing all publications (whether print or electronic) in which listings, advertisements or other references to TVANDNAV.COM, NAVTV.ORG, and NAVTV.NET appear or are scheduled to appear, directing them to immediately cancel any references to TVANDNAV.COM, NAVTV.ORG, and NAVTV.NET.

F. Within ten (10) days after the entry of an order for preliminary or permanent injunction, Defendant be required to remove TVANDNAV.COM, NAVTV.ORG, and NAVTV.NET from any hidden source code, including meta tags encoded at Defendant's websites.

G. Plaintiff recover the Defendant's profits, as well as the damages sustained by Plaintiff due to Defendant's infringement of Plaintiff's trademark rights, such amount of profits and damages to be trebled in accordance with the provisions of 15 U.S.C §§ 1117.



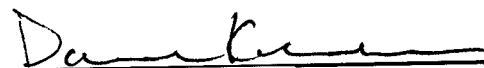
- H. Pursuant to 15 U.S.C § 1117(d), Defendant be required to pay statutory damages of \$100,000 per domain name arising for its violation of Section 43(d)(1)(A) of the Lanham Act.
- I. Defendant be required in accordance with 15 U.S.C § 1116 to file with the Court and serve on Plaintiff a report in writing under oath setting forth in detail the manner and form with which Defendant has complied with the terms of the injunction.
- J. Defendant be required to pay Plaintiff the costs of this action, together with reasonable attorneys' fees and disbursements.
- K. Awarding Plaintiff such damages, including compensatory and punitive damages as are appropriate in view of the conduct, including the willful conduct on the part of Defendants.
- L. Plaintiff to have such other and further relief as this Court deems just and equitable.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury of all issues properly triable by jury in this action.

Date: September 18, 2009

Respectfully submitted,



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**EXHIBIT A**



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**Typed Drawing**

**Word Mark** NAV-TV  
**Goods and Services** IC 009. US 021 023 026 036 038. G & S: TV and video converters. FIRST USE: 20000401.  
FIRST USE IN COMMERCE: 20000401  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 78248253  
**Filing Date** May 11, 2003  
**Current Filing Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** November 22, 2005  
**Registration Number** 3221234  
**Registration Date** March 27, 2007  
**Owner** (REGISTRANT) nav-tv corp. CORPORATION NEW YORK 1616 mcdonald avenue brooklyn NEW YORK 11230  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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### Typed Drawing

<b>Word Mark</b>	NAV-TV.COM
<b>Goods and Services</b>	IC 035. US 100 101 102. G & S: Online retail and wholesale store services featuring navigation apparatuses for vehicles in the nature of on-board computers, audio and video equipment with access to television for vehicles, and other personal entertainment electronics for vehicles. FIRST USE: 20000401. FIRST USE IN COMMERCE: 20000401
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76548856
<b>Filing Date</b>	September 17, 2003
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	August 30, 2005
<b>Registration Number</b>	3150329
<b>Registration Date</b>	October 3, 2006
<b>Owner</b>	(REGISTRANT) NAV-TV CORPORATION CORPORATION NEW YORK 1616 MCDONALD AVENUE BROOKLYN NEW YORK 11230
<b>Attorney of Record</b>	Jennifer Meredith
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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<b>Word Mark</b>	NAV TV
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Navigational apparatus for land vehicles in the nature of on-board computers; electronic audio and video modules with access to television for land vehicles, and other personal entertainment electronics namely DVDs, videos, AV inputs-output for land vehicles. FIRST USE: 20000401. FIRST USE IN COMMERCE: 20000401
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76548855
<b>Filing Date</b>	September 17, 2003
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	January 18, 2005
<b>Registration Number</b>	3081166
<b>Registration Date</b>	April 18, 2006
<b>Owner</b>	(REGISTRANT) NAV-TV CORPORATION CORPORATION NEW YORK 1616 MCDONALD AVENUE BROOKLYN NEW YORK 11230
<b>Attorney of Record</b>	Jennifer Meredith
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE TV APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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*Browser to return to TESS)***Typed Drawing**

**Word Mark** NAVTV

**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Navigation apparatus for vehicles in the nature of on-board computers, adapters integrating audio and video source to navigation screens to provide access to television for vehicles, personal entertainment electronics for vehicles, namely DVD machines and television sets. FIRST USE: 20000401. FIRST USE IN COMMERCE: 20000401

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 76548854

**Filing Date** September 17, 2003

**Current Filing Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** December 28, 2004

**Registration Number** 2934418

**Registration Date** March 22, 2005

**Owner** (REGISTRANT) NAV-TV CORPORATION CORPORATION NEW YORK 1616 MCDONALD AVENUE  
BROOKLYN NEW YORK 11230

**Attorney of Record** Jennifer Meredith

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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